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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
NATHAN SHERRILL TO PRODUCE
DOCUMENTS AND FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Nathan Sherrill ("Sherrill") to produce documents, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, and to appear for examination at the office of

1 Lewis and Roca LLP, 40 N. Central Avenue, Suite 1900, Phoenix, Arizona 85004, on a
2 business day no earlier than ten (10) business days after the filing of this Motion and no
3 later than January 15, 2008, or at such other mutually agreeable location, date, and time,
4 and continuing from day to day thereafter until completed.
5

6 This Motion is further explained in the following Memorandum.

7
8 **Memorandum**

9 The Trust seeks information concerning various transactions between Fidelity
10 National Title Company ("Fidelity") and USACM, the other debtors in the above-
11 captioned cases (together with USACM, the "Debtors"), and the Debtors' affiliates,
12 subsidiaries, parents, or otherwise related entities. Fidelity National was one of several
13 title companies that participated in the documents of loan transactions between the Debtors
14 and their borrowers.
15

16 Mr. Sherrill was the escrow officer who handled the vast majority of these
17 transactions for Fidelity. He is no longer employed by Fidelity. Fidelity is in the process
18 of producing their records pursuant to a separate Rule 2004 subpoena; however,
19 representatives from Fidelity have stated that there is no one other than Mr. Sherrill who
20 can adequately testify regarding the majority of the transactions.
21

22 The Trust seeks this information from the Mr. Sherrill to assist in the collection of
23 the assets and the investigation of the liabilities of the Debtors.
24

25 The requested discovery from Fidelity is within the scope of examination permitted
26 under Bankruptcy Rule 2004, which includes:

[t]he acts, conduct, or property or . . . the liabilities and financial condition of the debtor, or . . . any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a . . . reorganization case under chapter 11 of the Code, . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.¹

Conclusion

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: November 30, 2007.

DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

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¹ FED.R. BANKR. P. 2004(b).